

EXECUTION VERSION

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

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In re: : Chapter 11 Case No.  
: :  
LEHMAN BROTHERS HOLDINGS INC., et al., : 08-13555 (JMP)  
: :  
Debtors. : (Jointly Administered)  
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**TENTH SUPPLEMENTAL AFFIDAVIT OF ROBERT JAY MOORE  
IN CONNECTION WITH RETENTION AND EMPLOYMENT OF  
MILBANK, TWEED, HADLEY & M<sup>c</sup>CLOY LLP AS COUNSEL TO  
OFFICIAL COMMITTEE OF UNSECURED CREDITORS**

STATE OF CALIFORNIA )  
 ) SS.:  
COUNTY OF LOS ANGELES )

ROBERT JAY MOORE, being duly sworn, says:

1. I submit this Tenth Supplemental Affidavit (the "Affidavit") on behalf of Milbank, Tweed, Hadley & M<sup>c</sup>Cloy LLP ("Milbank") as a supplement to the Affidavit of Robert Jay Moore, sworn to on October 21, 2008 (the "Initial Affidavit"), the First Supplemental Affidavit, sworn to on November 13, 2008, the Second Supplemental Affidavit, sworn to on January 30, 2009, the Third Supplemental Affidavit, sworn to on May 29, 2009, the Fourth Supplemental Affidavit, sworn to on July 20, 2009, the Fifth Supplemental Affidavit, sworn to on December 23, 2009, the Sixth Supplemental Affidavit, sworn to on March 18, 2010, the Seventh Supplemental Affidavit, sworn to on May 25, 2010, the Eighth Supplemental Affidavit, sworn on November 9, 2010, and the Ninth Supplemental Affidavit, sworn to on May 13, 2011 (collectively, the "Prior Affidavits"),<sup>1</sup> pursuant to sections 328 and 1103(b) of title 11 of the

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<sup>1</sup> Capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Prior Affidavits or the Application Of Official Committee Of Unsecured Creditors Of Lehman Brothers Holdings Inc., et al., Under 11 U.S.C. § 1103 And Fed. R. Bankr. P. 2014 And 5002, For Order Authorizing

United States Code, 11 U.S.C. §§ 101-1532 (as amended, the “Bankruptcy Code”), rules 2014 and 5002 of the Federal Rules of Bankruptcy Procedure, and rule 2014-1 of the Local Bankruptcy Rules for the Southern District of New York, in connection with Milbank’s retention as counsel to the Official Committee of Unsecured Creditors (the “Creditors’ Committee” or the “Committee”) of Lehman Brothers Holdings Inc. and its affiliated debtors in possession (collectively, the “Debtors” and, together with their non-Debtor affiliates, “Lehman”) in the above-captioned chapter 11 cases (the “Chapter 11 Cases”).

2. I am a partner in the Financial Restructuring Group of Milbank and a member of the Task Force<sup>2</sup> established to oversee the continuing process of identifying to the fullest extent possible all connections that Milbank, its attorneys, and its employees had in the past and presently have to the Debtors, Lehman, the Chapter 11 Cases, and the parties in interest in the Chapter 11 Cases and to gather the information required to complete this Affidavit. I have consulted with, and relied upon the input obtained from, the members of the Task Force, and I, or other members of the Task Force, have knowledge of all facts described herein.

3. Unless otherwise stated in this Affidavit, I have knowledge of the facts set forth herein and, if called as a witness, I would testify thereto.<sup>3</sup>

#### **Milbank’s Retention**

4. The Court authorized Milbank’s retention as counsel for the Committee in these Chapter 11 Cases pursuant to the Final Order Under 11 U.S.C. § 1103 And Fed. R. Bankr.

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Retention And Employment Of Milbank, Tweed, Hadley & M<sup>c</sup>Cloy LLP As Counsel, Effective As Of September 17, 2008, dated October 21, 2008 (the “Application”) (Docket No. 1165).

<sup>2</sup> The current members of the Task Force are Thomas A. Arena, David S. Cohen, Alexander M. Kaye, Robert J. Moore, and Risa M. Rosenberg. Messrs. Arena and Kaye are members of Milbank’s Risk Management Committee.

<sup>3</sup> Certain of the disclosures set forth herein relate to matters not within my personal knowledge, but rather within the personal knowledge of other attorneys and employees at Milbank, and are based on information provided by them to the Task Force.

P. 2014 And 5002, Authorizing Retention And Employment Of Milbank, Tweed, Hadley & M<sup>c</sup>Cloy LLP As Counsel To Official Committee Of Unsecured Creditors Of Lehman Brothers Holdings Inc., et al., Effective As Of September 17, 2008, entered on November 21, 2008 (Docket No. 1654).

5. In connection with its retention in these Chapter 11 Cases, Milbank has monitored, and will continue to monitor, its connections with Lehman, the Debtors, their creditors, and other parties in interest, as well as their respective attorneys and accountants. As set forth in the Prior Affidavits, Milbank intends to continue to file supplemental affidavits regarding its retention as and if any additional relevant information comes to its attention.<sup>4</sup>

**Milbank's Additional Connections with Debtors**

6. Based upon the information gathered by the Task Force using the Milbank Disclosure Procedures, to the best of my knowledge the following sets forth the connections, in addition to those disclosed in the Prior Affidavits, that Milbank, its attorneys, and its employees have with regard to the Debtors, their creditors, and other parties in interest in these Chapter 11 Cases as of the date of this Affidavit.

7. Several years prior to the date hereof (and also prior to the commencement of the Chapter 11 Cases), a current Milbank attorney (who at the time was employed by another law firm and is currently employed by Milbank's Hong Kong office) represented a group of investors in acquiring a controlling stake in an Asian financial institution (the "Initial Investment"). The Initial Investment did not involve Lehman or any fund managed / controlled by Neuberger Berman. Subsequent to the Initial Investment, one or more affiliates of funds

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<sup>4</sup> Milbank intends to file a more robust supplemental affidavit in the near future.

controlled by Neuberger Berman (“NB”) also acquired a non-controlling stake in the financial institution.

8. Given Milbank’s familiarity with the relevant financial institution and the related legal issues in the relevant jurisdiction, NB proposes to retain Milbank’s Hong Kong office (along with its Singapore office) to represent NB in a proposed sale of the aforementioned equity stake (the “Proposed Sale”). The Proposed Sale is otherwise entirely unrelated to the Chapter 11 Cases, the Debtors and any other non-Debtor affiliates of the Debtors.

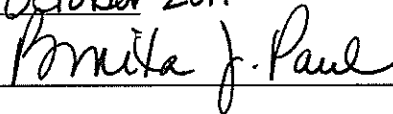
9. Milbank has concluded that its retention by NB with regards to the Proposed Sale is permissible under the standards governing Milbank’s retention in the Chapter 11 Cases and does not present a conflict with its retention as counsel to the Committee. Out of an abundance of caution, Milbank has established and will continue to use a separate team to handle the Proposed Sale, the members of which will be separated from all Committee matters related to NB by a formal information wall. Additionally, in the unlikely event that a conflict arises between our representation of the Committee and the Proposed Sale, Milbank will withdraw from the representation of NB with respect to the Proposed Sale.

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10. Milbank is carrying on further inquiries of its partners, counsel, and associates with respect to the matters contained herein and in the Prior Affidavits. As indicated above, Milbank will file supplemental declarations as and if any additional relevant information comes to its attention.

  
ROBERT JAY MOORE

Sworn to before me this 31<sup>st</sup> day  
of October 2011

  
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